

Taking the Temperature of **TEA-21**

TEN RECOMMENDATIONS FOR PROGRESS



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The Transportation Equity Act for the 21st Century (TEA-21) is the most significant piece of public works legislation ever passed. In addition to restructuring federal highway, transit, and motor carrier programs, it reauthorized two highway safety grant programs, authorized six new incentive grant programs, and authorized two new safety-related penalty provisions. All of the grant programs and penalty provisions address driver and roadway user behavior. Five years have elapsed since the beginning of TEA-21, and the process of reauthorization has begun. Recommendations for the next authorization are based on an evaluation of TEA-21 safety programs by the membership of the Governors Highway Safety Association (GHSA) who adopted these recommendations at their September 2002 Annual Meeting. GHSA is the nonprofit association representing State Highway Safety Offices throughout the country.

Experiences with the combined effects of both grant and penalty provisions of TEA-21 have been mixed thus far. Every state received increased funding for behavioral programs that allowed them to increase enforcement of safety laws, embark on ambitious educational campaigns, conduct more child safety seat inspections, and other safety-related activities. The increased funding helped contribute to the lowest motor vehicle fatality rate on record in 1999, 2000, and 2001.

On the other hand, the new programs also created administrative and programmatic difficulties for the states. The proliferation of incentive grants tended to fragment the federal safety program and create an emphasis on occupant protection and impaired driving without providing adequate funding to address other safety problems. Some of the individual incentives have also been problematic. Administration of the incentives created an enormous burden on state highway safety personnel and caused them to reduce the amount of time spent on planning, program delivery, and evaluation.

The penalties also caused problems for the states trying to enact the required legislation, the wording of which was very specific. As of September 30, 2002, 36 states plus the District of Columbia were in compliance with the open container requirements and 32 states plus DC were in compliance with the repeat offender requirements. However, only 22 states and the District of Columbia were in compliance with both provisions, and as a result 28 states faced at least one penalty.

Inadequate federal research funding also created challenges for the states. Often, the states were compelled by legislation and federal regulations to implement highway safety programs for which there is non-existent or insufficient research justification. The following ten recommendations represent GHSA's most important goals for the reauthorization. Implementing these recommendations will produce a more efficient and effective highway safety program.

Reauthorization Recommendations

1

Safeguard Funding

Strengthen and continue the use of budget firewalls around funding for all federal behavioral highway safety grant programs, and safeguard states' rights in determining the use of these funds. *The continuation of budget firewalls would ensure that safety funding is appropriated at authorized levels and that there is a stable and reliable source of safety funding every year. It would facilitate state planning because the states would know in advance how much funding is available from year to year. By safeguarding funding and maintaining the integrity of federal highway safety programs, states would continue to maintain the lead, as envisioned in the Highway Safety Act of 1966, in deciding how to spend funds in a way that best meets their differing needs.*

2

Create a Consolidated Behavioral Safety Grant Program

Authorize an enhanced Highway Safety Grant Program that includes a large basic 402 program and any incentive programs in tiers. The enhanced program would consolidate the existing Sections 402, 405, 410, 411, 2003(b), 163 and 157 programs into a single program. Continue the current 402 allocation formula, planning requirements and local benefit requirement.

Base the eligibility for the incentive tiers upon performance-based criteria including:

- Passage of appropriate national model laws, **or**;
- Continuation of incremental increases in performance as measured by such factors as increased seatbelt usage rates, lowered mileage death rates, reduced impaired driving fatalities or other factors **or**;
- Maintenance of state performance better than the national average.

A single highway safety program would allow states to comply with ONE deadline and submit ONE highway safety plan. This would relieve the administrative burden on the states as well as on the National Highway Traffic Safety Administration (NHTSA). A single highway safety grant program would end the fragmented federal approach to highway safety. The incentive eligibility criteria would reward states for progress they make in highway safety or for enactment of critical safety legislation as well as allow high-performing states to maintain their level of performance.

3

Adequately Fund the Program

Fund the enhanced 402 program, at a minimum of \$500 million per year. If Congress finds ways to increase surface transportation funding above current levels, then \$1 billion of that increase should be directed on a proportionate basis to a newly-consolidated federal behavioral and current safety infrastructure programs. *If the current level of effort is simply maintained, then NHTSA has projected that fatalities will increase to 50,000 a year by the year 2008. Every state is facing population growth (particularly among the young and the elderly), increased Vehicle Miles Traveled (VMT), increased licensed drivers, and an increase in the number of registered vehicles. In the face of these increases and without adequate funding, the number of fatalities and injuries will climb upward, and the progress that states have made with TEA-21 funding will be slowed or reversed. Further, without increased funding, states will not be able to address emerging highway safety issues (such as aggressive driving or distracted driving), adequately fund programs for target populations (such as young drivers and older drivers), fund community-level programs or fund improvements to roadway safety.*

4

Support a Safety Data Grant Program

Authorize a \$50 million a year data incentive grant program that would fund improvements in crash, truck, citation, roadway and other highway safety-related data systems. Base grant eligibility on a traffic records assessment, a multi-agency Traffic Records Coordinating Committee and development of a state traffic records strategic plan. Base outyear eligibility on implementation of the state plan. *The identification of key safety problems, selection of appropriate countermeasures and evaluation of the results depends upon accessible, comprehensive, accurate and reliable data. As states move into more research- and performance-based programs, having good data will become even more essential. Without adequate resources, states will be less likely to implement uniform guidelines for collecting crash data or utilize data linkage software. Without adequate resources, states will not be able to make improvements in related databases such as driver licensing, emergency medical systems, law enforcement and judicial databases. Without adequate resources, states will continue to make improvements in their safety data systems on a slow, piecemeal basis and in a way that does not take advantage of developments in technology.*

5

Enhance Federal Safety Research

Increase the amount of federal funding for behavioral, roadway and motor carrier safety research and fund a motor vehicle crash causation study. Establish an ongoing national safety research program that is modeled on the National Cooperative Highway Research Program (NCHRP) and directed by the states. *Funding for driver and pedestrian behavioral research is only a fraction of what is funded for highway and transit research. As a result, the effectiveness of many safety countermeasures has never been researched at all and some studies (such as the crash causation study) have not been updated for decades. An increase in funding would ensure that there is sufficient research to support and evaluate state and community safety programs. Without such funding, it is difficult to demonstrate innovative approaches to safety or determine what safety programs work. By creating an oversight body like NCHRP for the federal behavioral research program, states would have a voice in setting the safety research agenda so that research is conducted that will be meaningful for the states.*

Reauthorization Recommendations continues.

6

Alter Lobbying Restrictions

Alter current lobbying restrictions to allow federally-funded state and local highway safety offices and their grantees to lobby state legislatures on behalf of state administration-approved positions on state level highway safety legislation. *Current lobbying restrictions were enacted primarily to limit lobbying by federal agencies but they effectively limit lobbying by all levels of government. They prevent state highway safety agencies from supporting critical state highway safety legislation and from funding local coalitions that support such legislation. The current limits on lobbying of state legislation should be retained but made less restrictive. By altering the current restrictions, Congress would remove the obstacle that prevents state highway safety offices from lobbying on behalf of their governors' safety legislation. Such action would also facilitate state compliance with federal statutes so that the state could qualify for safety incentive grant funds and could avoid various penalties and sanctions.*

7

Continue the Use of Funds for Paid Advertising

Allow states to continue to use Section 402 funds to purchase paid advertising. *Statewide paid advertising maximizes audience exposure and receptivity to safety concepts and enhances the effectiveness of the highway safety program through delivery of lifesaving messages. Fiscal Years 2001 and 2002 demonstration programs that used paid media in conjunction with targeted enforcement were found to be very successful and helped increase seat belt usage rates to their highest levels ever. Paid advertising is also an effective way to reach target populations such as minorities and the young. Without this federal authority, states will be forced to rely on public service announcements which do not have the same effectiveness as paid advertising.*

8

Avoid New Sanctions and Penalties

Do not include any new sanctions or penalties in the reauthorization of the federal highway safety program. *Sanctions and penalties have not been universally effective. While the .08 and zero tolerance sanctions have worked well, the sanctions for mandatory motorcycle helmets and national maximum speed limit were dismal failures. Sanctions are a heavy-handed, one-size-fits-all policy that are not suited to diverse state needs and problems. Further, sanctions and penalties will adversely affect highway construction at a time when construction funding is significantly reduced as a result of reductions in the Revenue Aligned Budget Authority funding (RABA). States are also diverting their transportation trust fund revenues to help balance state budgets, and sanctions would only reduce transportation revenues to states even further. Additional sanctions would cause states to defer maintenance or delay low-cost safety improvements and, therefore, would be counterproductive. Incentives work better to motivate states to take the appropriate action.*

9

Make Technical Changes in the Current Penalties

Allow the one-year suspension of a repeat offender's license to consist of hard suspension for a limited amount of time (e.g., 60 or 90 days) followed by a restricted license with an ignition interlock. Allow the impoundment or immobilization of only those vehicles primarily used by the offender. Put a time limit on immobilizations and impoundments. Revise the penalties so that transferred funds may only be used for impaired driving programs. Allow a more flexible interpretation of statutory language than NHTSA presently does. *These technical changes would ensure that the repeat offender and open container penalties work in the manner in which Congress intended and would reflect what research shows to be effective.*

10

Retain and Strengthen the Safety Conscious Planning Requirement

Congress should retain and strengthen the safety planning factor, as required under Sections 1203 and 1204 of TEA-21, and separate it from the security factor. This could be accomplished by expanding the requirement so that state safety-related agencies collaborate in the development of the 402 behavioral safety plan, the state's motor carrier safety plan, and the safety-related components of a state Department of Transportation's Statewide Transportation Program (STP) and of a Metropolitan Planning Organization's Transportation Improvement Plan (TIP). *The TEA-21 safety planning requirement has sensitized some state DOTs and MPOs to safety problems and has encouraged implementation of appropriate countermeasures. However, the safety planning factor only affects the state DOT and MPO planning processes and does not allow an integrated approach to safety planning. A change in the statutory language would encourage all safety-related agencies to work together toward common state performance-based safety goals.*